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Attorney for *Defendants*

IN THE UNITED STATES DISTRICT COURT  
 FOR THE NORTHERN MARIANA ISLANDS

KAMALA BADE MESIK,

Plaintiff,

vs.

DKK INC. and KIM HONG KYUN,

Defendants.

CASE NO. CV 07-0019

MOTION TO STRIKE  
 DECLARATIONS

Date: Thursday, January 10, 2008

Time: 9:00 a.m.

Judge: Hon. Alex R. Munson

COMES NOW the Defendants, DKK, Inc. and Kim Hong Kyun appearing specially through their attorney Mark B. Hanson challenging the personal jurisdiction of this Court in this matter,<sup>1</sup> with this Motion pursuant to Local Rule 7.1.c.4 to strike the untimely declarations submitted on behalf of Plaintiff in opposition to Defendants' Motion to Dismiss.

MOTION TO STRIKE

On November 27, 2007, Defendants filed a Motion to Dismiss in the above-captioned case, challenging the service in this matter and the Court's personal jurisdiction over the Defendants. *See* Doc. No. 14. Plaintiff's attorney was timely served the same day via the Court's Case Management/Electronic Case Filing System. *See* Certificate of Service, Doc. No. 14.

<sup>1</sup> Defendants expressly reserve issues of personal jurisdiction over them given the failure of service of process in this matter. This motion by Defendants through the undersigned's special appearance is not intended to waive any issues of personal jurisdiction. *See, e.g., Jackson v. Hayakawa*, 682 F.2d 1344, 1347 (9<sup>th</sup> Cir. 1982) (defendants specially appearing to challenge personal jurisdiction by preliminary motion do not waive personal jurisdiction as would a general appearance).

1 Pursuant to Local Rule 7.1.c.2:

2 Any opposition to the motion shall be filed and served by  
3 the close of business (3:30 p.m.) on the Thursday of the second  
4 full week after the week in which the motion was filed. The  
5 opposition shall consist of a legal memorandum or brief and,  
6 when appropriate, affidavits or declarations under penalty of  
7 perjury. A party not opposing a motion shall file a statement of  
8 no opposition within the time provided above. Failure to file  
9 such a statement may be deemed an admission that the motion  
10 is meritorious.

11 Accordingly, Plaintiff's opposition (or her statement of no opposition) to Defendants'  
12 Motion to Dismiss was due no later than Thursday, December 13, 2007.

13 Plaintiff failed to file either an opposition or a statement of no opposition. Instead, on  
14 Friday, December 21, 2007, over a week after her opposition was due, and without leave of this  
15 Court, Plaintiff filed two declarations in opposition to Defendants' Motion.

16 The Declarations, including any argument in opposition to Defendants' Motion  
17 contained therein, filed without leave of Court are expressly prohibited by Local Rule 7.1.c.4.  
18 The declarations are untimely pursuant to Local Rule 7.1.c.2. The declarations should,  
19 therefore, be stricken and not considered by this Court. *See* L.R. 7.1.c.4.

20 Further, Plaintiff's failure to file an opposition to Defendants' Motion should be  
21 deemed an admission by Plaintiff that the Motion is meritorious. *See* L.R. 7.1.c.2.

22 DATED this 27<sup>th</sup> day of December, 2007.

23 /s/ Mark B. Hanson

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CERTIFICATE OF SERVICE

I hereby certify that the following was served with a copy of the foregoing via the Court's Case Management/Electronic Case Filing System:

Danilo T. Aguilar, Esq.  
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DATED: November 27, 2007

/s/ Mark B. Hanson

MARK B. HANSON